

1 GAYLE M. ATHANACIO (SBN 130068)  
gathanacio@sonnenschein.com  
2 SONNENSCHN NATH & ROSENTHAL LLP  
525 Market Street, 26th Floor  
3 San Francisco, CA 94105-2708  
Telephone: (415) 882-5000  
4 Facsimile: (415) 882-0300

5 Attorneys for Defendant  
TEACHSCAPE, INC.  
6  
7

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION  
11

12 CANTER & ASSOCIATES, LLC, and  
13 LAUREATE EDUCATION, INC.,

14 Plaintiffs.

15 v.

16 TEACHSCAPE, INC.,

17 Defendant.  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Case No. C 07-3225 RS

**DECLARATION OF GAYLE M.  
ATHANACIO IN SUPPORT OF  
DEFENDANT TEACHSCAPE'S  
MOTION TO DISMISS/STRIKE  
COMPLAINT**

Date: September 26, 2007  
Time: 9:30 a.m.  
Courtroom: 4, Fifth Floor  
Honorable Richard Seeborg

1 I, Gayle M. Athanacio, declare as follows:

2 1. I am an attorney at law duly admitted to practice before this Court and a  
3 partner of the law firm of Sonnenschein Nath & Rosenthal LLP, counsel of record for Defendant  
4 Teachscape, Inc. I make this declaration in support of Teachscape's Motion to Dismiss/Strike  
5 the Complaint. I have personal knowledge of the matters set forth herein and could competently  
6 testify to them if called upon to do so.

7 2. Attached hereto as Exhibit A is a true and correct copy of a letter dated  
8 February 9, 2007, from Annette Hurst, counsel for Plaintiffs, to Christine Lepera, counsel for  
9 Teachscape, in which the exchange of course materials between the parties was raised (relevant  
10 portion of letter noted on the attached).

11 3. Attached hereto as Exhibit B is a true and correct copy of a letter dated  
12 February 20, 2007, from Ms. Lepera to Ms. Hurst in which Teachscape responds to Ms. Hurst's  
13 February 9<sup>th</sup> letter. The portion of the letter dealing with the exchange of course materials is  
14 noted on the attached.

15 4. Attached hereto as Exhibit C is a true and correct copy of a letter dated  
16 March 7, 2007, from Ms. Lepera to Ms. Hurst, in which the exchange of course materials was  
17 again discussed (relevant portion of letter noted on the attached).

18 5. Attached hereto as Exhibit D is a true and correct copy of a letter dated  
19 April 6, 2007, from Ms. Hurst to Ms. Lepera, in which the exchange of course materials were  
20 further discussed (relevant portions of letter noted on the attached).

21 6. Attached hereto as Exhibit E is a true and correct copy of a letter dated  
22 April 16, 2007, from Ms. Lepera to Ms. Hurst, which represents the last letter between the parties

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 prior to the filing of Plaintiffs' action, in which the exchange of course materials was discussed  
2 (relevant portion of letter noted on the attached).

3 I declare under penalty of perjury under the laws of the United States of America  
4 and the State of California that the foregoing is true and correct.

5 Executed this 3<sup>rd</sup> day of August, 2007, at San Francisco, California.

6   
7

8 Gayle M. Athanacio

9 17569223

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
SONNENSCHEN NATH & ROSENTHAL LLP  
525 MARKET STREET, 26<sup>TH</sup> FLOOR  
SAN FRANCISCO, CALIFORNIA 94105  
(415) 882-5000